

POND ROAD PROPERTIES

IBLA 83-940

Decided October 20, 1983

Appeal from decision of Wyoming State Office, Bureau of Land Management, rejecting a first-drawn application in the simultaneous oil and gas leasing program. W 85601.

Vacated and remanded.

1. Oil and Gas Leases: Applications: Generally

It is not proper to reject an application in the simultaneous oil and gas leasing program because the address shown on the application coincidentally is the same as that of a filing service, where it is shown that the application was filed by members of the filing service for their own account.

APPEARANCES: Lawrence Di Giulio, managing partner, Pond Road Properties, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

In the May 1983 simultaneous oil and gas leasing program, the application of Pond Road Properties (Pond Road), W 85601, was drawn with first priority for parcel WY 290. Thereafter, by decision of August 16, 1983, the Wyoming State Office, Bureau of Land Management (BLM), rejected the application because it showed the address of Pond Road as 1105 Delaware Avenue, Buffalo, New York 14209, which is the same address as that for Western New York Geological Services, Inc., the filing service indicated as having assisted in the preparation of the application. The decision stated that each applicant must use the applicant's personal or business address citing 43 CFR 3112.2-1(d), stressing the applicants shall not use the address of any person or service which is in the business of providing assistance to participants in the simultaneous oil and gas leasing system.

On appeal, the managing partner of Pond Road stated the principals of Western New York Geological Services, Inc., use Pond Road as their partnership for filing oil and gas lease applications on their own behalf, so that the address shown on the application is the correct address for Pond Road, as well as for Western New York Geological Services, Inc.

[1] The explanation given by appellant is persuasive and satisfactory. Where the principals of a filing service establish a partnership in order to participate in the simultaneous oil and gas leasing program, use of the same street address must be considered and construed as a coincidence, and not a fatal defect in the application.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is vacated and the case remanded for issuance of a lease to Pond Road Properties, all else being regular.

Douglas E. Henriques
Administrative Judge

We concur:

Franklin D. Arness
Administrative Judge
Alternate Member

Anne Poindexter Lewis
Administrative Judge

